


Subject: Dispositions and Children's Mental Health – Guidance for HB-233		FACS Administrative Directive AD 21-001
Effective Date: July 1, 2021		Approved by: Division Administrator  Date: 08/11/2021
Annual Review Date: June 1	Annual Reviewer: Julie Sevcik, Child Welfare Program Specialist	Technical Support Contact: Julie Sevcik, Child Welfare Program Specialist
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Programs Affected: Child and Family Services		

Effective July 1, 2021 legislative changes to Idaho Statute, Title 16, Chapter 24, Children's Mental Health Services became effective. This statute change is intended to maximize the support for families of children suffering from serious emotional disturbance (SED), to reduce the need for out of home placements and/or institutionalization, and to address situations where a gap in services exists for children. The statute requires that a substantiated disposition not be made in specific circumstances. To read the full statute [click here](#).

FACS AD 21-001 provides clarification regarding when to not make a substantiated disposition for a parent with regard to a child with SED.

Statutory Requirements:

The department shall not make a ***substantiated disposition*** that a child has been abused, neglected, or abandoned by a parent or guardian under the Child Protective Act, chapter 16, title 16, Idaho Code because of a request for inpatient hospital treatment or an out-of-home placement for the child if:

- a. The child's recent mental health condition demonstrates that the child is likely to cause harm to himself or to suffer substantial mental or physical deterioration, and/or
- b. Is likely to cause harm to others, and
- c. If the risk cannot be eliminated before returning the child to the child's family.

There are situations which will continue to meet a substantiated disposition. Under current rules, parents/guardians who refuse to care for their children in these situations are being substantiated not for requesting inpatient treatment or out-of-home placement, but because those services are not recommended/available, and the parent is still refusing to care for the child. This could result in a substantiated disposition for neglect or abandonment.

The disposition decision must be made through the comprehensive assessment which should include information on whether the child has been recently evaluated by a mental health professional. If the child has been evaluated by a mental health professional and they have determined the child is not likely to cause harm to themselves and/or others and/or the child is not likely to suffer mental or physical deterioration, the parent would likely be unable to show that they fall under the protections of this statute.

If you have a case that meets any of the above circumstances, you must staff the case with your regional deputy attorney general (DAG) and child welfare chief prior to dispositioning.

Please begin utilizing the requirements in this statute immediately when determining dispositions. If you have any questions, please contact your regional DAG or the Child Welfare Policy Team.